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PATENT

Attorney Docket No. 3385.1



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Ron T. Shigeta, et al.

Examiner: TBD

Serial No: 10/083,853

Group Art Unit: TBD

Filing Date: February 26, 2002

**Title: NUCLEIC ACID ENCODING
GROWTH FACTOR PROTEIN**

Commissioner for Patents

Washington, D.C. 20231

SUBSTITUTE DECLARATION AND POWER OF ATTORNEY

Dear Sir:

Please consider the attached Substitute Declaration and Power of Attorney documents to replace the previously filed Declaration and Power of Attorney filed on February 26, 2002, which may have contained defects.

The Commissioner is hereby authorized to charge any additional fees, which may be required, or credit any overpayment to Deposit Account No. 01-0431.

It is hereby respectfully submitted that the enclosed documents complete the filing of the above patent application and justify the filing date of February 26, 2002. Please telephone the undersigned at (408) 731-5000, if there are any questions.

I hereby certify that this correspondence is being deposited by Express Mail to: Commissioner For Patents, Washington, D.C. 20231.

On May 20, 2002
Express Mail No.: EL 675 507 438 US

AFFYMETRIX, INC.

By: Syl Log

Respectfully submitted,


Man Sung Co
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PTO/SB/01 (12-97)

Approved for use through 9/30/00. OMB 0651-0032

Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**DECLARATION FOR UTILITY OR
DESIGN
PATENT APPLICATION
(37 CFR 1.63)**

Declaration
Submitted
With Initial
Filing

Declaration
Submitted after Initial
Filing (surcharge
(37 CFR 1.16 (e))
required)

| | |
|--------------------------|----------------------|
| Attorney Docket Number | 3385.1 |
| First Named Inventor | Ron. T. Shigeta, Jr. |
| COMPLETE IF KNOWN | |
| Application Number | 10/083,853 |
| Filing Date | February 26, 2002 |
| Group Art Unit | TBA |
| Examiner Name | TBA |

As a below named inventor, I hereby declare that:

My residence, post office address, and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

NUCLEIC ACID ENCODING GROWTH FACTOR PROTEIN

the specification of which *(Title of the Invention)*

is attached hereto

OR

was filed on (MM/DD/YYYY) **2/26/02** as United States Application Number or PCT International

Application Number **10/083,853** and was amended on (MM/DD/YYYY) (if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims as amended specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or of any PCT international application having a filing date before that of the application on which priority is claimed.

| Prior Foreign Application Number(s) | Country | Foreign Filing Date (MM/DD/YYYY) Country | Priority Not Claimed | Certified Copy Attached? |
|-------------------------------------|---------|--|--------------------------|---|
| | | | <input type="checkbox"/> | <input type="checkbox"/> <input type="checkbox"/> |
| | | | <input type="checkbox"/> | <input type="checkbox"/> <input type="checkbox"/> |
| | | | <input type="checkbox"/> | <input type="checkbox"/> <input type="checkbox"/> |
| | | | <input type="checkbox"/> | <input type="checkbox"/> <input type="checkbox"/> |

Additional foreign application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto:

I hereby claim the benefit under 35 U.S.C. 119(e) of any United States provisional application(s) listed below.

| ApplicationNumber(s) | Filing Date (MM/DD/YYYY) | |
|----------------------|--------------------------|--|
| 60/272,662 | March 1, 2001 | <input type="checkbox"/> Additional provisional application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto. |

[Page 1 of 2]

Burden Hour Statement: This form is estimated to take 0.4 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

DECLARATION — Utility or Design Patent Application

I hereby claim the benefit under 35 U.S.C. 120 of any United States application(s), or 365⁰ of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C. 112, I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

| | | |
|--|---------------------------------|--------------------------------------|
| U.S. Parent Application or PCT Parent Number | Parent Filing Date (MM/DD/YYYY) | Parent Patent Number (if applicable) |
| | | |

Additional U.S. or PCT international application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto.

As a named inventor, I hereby appoint the following registered practitioner(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith Customer Number 22886 → Place Customer Number Bar Code Label here
 OR
 Registered practitioner(s) name/registration number listed below

| Name | Registration Number | Name | Registration Number |
|------|---------------------|------|---------------------|
| | | | |

Additional registered practitioner(s) named on supplemental Registered Practitioner Information sheet PTO/SB/02C attached hereto.

Direct all correspondence to: Customer Number 22886 OR Correspondence address below

| | | | | | | |
|---------|-------------------------------------|-----------|--------------|-----|-------|--------------|
| Name | Affymetrix, Inc. | | | | | |
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| City | Santa Clara | State | CA | ZIP | 95051 | |
| Country | USA | Telephone | 408/731-5000 | | Fax | 408/731-5392 |

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

| | | | | | | | |
|--|---|-------|------------------------|---------|-------|-------------|----------|
| Name of Sole or First Inventor: | <input type="checkbox"/> A petition has been filed for this unsigned inventor | | | | | | |
| Given Name (first and middle if any) | | | Family Name or Surname | | | | |
| RON T. | | | SHIGETA, JR. | | | | |
| Inventor's Signature |  | | | | | Date | 05/09/02 |
| Residence: City | Berkeley | State | CA | Country | USA | Citizenship | USA |
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| City | Berkeley | State | CA | ZIP | 94702 | Country | USA |
| <input checked="" type="checkbox"/> Additional inventors are being named on the supplemental Additional Inventor(s) sheet(s) PTO/SB/02A attached hereto. | | | | | | | |

Please type a plus sign (+) inside this box → +

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DECLARATION *MAY 21 2002*ADDITIONAL INVENTOR(S)
Supplemental Sheet
Page 1 of 1

Approved for use through 10/31/2002. OMB 0651-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Name of Additional Joint Inventor, if any:

 A petition has been filed for this unsigned inventor

Given Name (first and middle [if any])

Family Name or Surname

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